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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



In re the application of:

Attorney Docket No.: 1915.24US04

Morris et al.

Confirmation No.: 2287

Application No.: 10/826,651

Examiner: Jiping Lu

Filed: 16 April 2004

Group Art Unit: 3749

For: PRECIPITATION RESISTANT RIDGE VENT

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

BRIEF FOR APPELLANT

Mail Stop Appeal Brief – Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This is an appeal from an Office Action dated 25 July 2005 in which claims 1-37 were finally rejected. A Notice of Appeal and Pre-Appeal Brief Request for Review were filed on 25 October 2005. A Notice of Panel Decision from Pre-Appeal Brief Review was dated 12 December 2005. Applicants believe fees for a four (4) month extension of time are due and payable. To this end, a Petition for an Extension of time and a check for \$1590.00 are enclosed herewith. If additional extensions of time are needed, please consider this paper as a petition for such an extension and deduct these fees from Deposit Account No. 16-063.

*Please grant any extension of time necessary for entry; charge any fee due to Deposit Account No. 16-0631.*

CERTIFICATE OF MAILING

I hereby certify that this document is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on

21 APRIL 2006  
Date of Deposit

Wm Larry Alexander  
Wm. Larry Alexander

I. REAL PARTY IN INTEREST

Liberty Diversified Industries, Inc., a corporation organized under the laws of Minnesota, and having offices at 5600 North Highway 169, Minneapolis, Minnesota 55428-3096, is the assignee of the patent application. Assignments by the inventors to the assignee are recorded at Reel 7259, Frame 0568 et seq. and at Reel 011181, Frame 0242 et seq.

II. RELATED APPEALS AND INTERFERENCES

Applicant is unaware of any related appeals or interferences.

III. STATUS OF THE CLAIMS

Pending claims 1-37 are rejected and are listed in Appendix A.

IV. STATUS OF AMENDMENTS

All Amendments have been entered.

V. SUMMARY OF CLAIMED SUBJECT MATTER

All pending claims recite either a vent or device for ventilating a structure, a method of venting a structure with the vent of this invention, a method of constructing a vent of this invention, or a method of installing the vent of this invention. As recited in the pending independent claims, the instant vent has a top panel and one or more vent parts, either or both of the top panel and vent part having a multiplicity of discrete air passages. The discrete air passages allow air to flow from the interior to the exterior of a structure, thereby ventilating the structure.

A. Claim 1.

Independent claim 1 recites a vent comprising a top panel 30,<sup>1</sup> at least one vent part,<sup>2</sup> and

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<sup>1</sup> Present Application, e.g., beginning at page 7, line 21 and Figure 1.

<sup>2</sup> Each stack of vent panels 32 comprises a vent part; see Present Application at, e.g., beginning at page 7, line 21 and Figure 1.

a filter material 34,<sup>3</sup> both the top panel and vent part(s) defining a multiplicity of discrete air passages 46.<sup>4</sup> The vent part(s) is in a contacting relation with an interior surface of the top panel.<sup>5</sup> The filter material is secured to the bottom surface(s) 68 of the vent part(s).<sup>6</sup>

B. Claim 13.

Independent claim 13 is to a vent comprising a top panel 30,<sup>7</sup> a vent part,<sup>8</sup> and an air permeable filter 34.<sup>9</sup> Each of the top panel and vent parts has a multiplicity of discrete air passages 46.<sup>10</sup> The vent part is formed from a three-ply material 38<sup>11</sup> with a pair of outer plies 40, 42<sup>12</sup> and an intermediate ply 44<sup>13</sup> between the outer plies to define the multiplicity of air passages in the vent part. The air permeable material is attached to a bottom surface 52<sup>14</sup> of the top panel and positioned to filter air being conveyed through the top panel or vent part air passages.<sup>15</sup>

C. Claim 14.

Independent claim 14 recites a vent comprising a top panel 30,<sup>16</sup> a plurality of vent

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<sup>3</sup> Present Application, e.g., beginning at page 7, line 21 and Figure 1.

<sup>4</sup> Present Application, e.g., beginning at page 7, line 23 and Figure 4.

<sup>5</sup> Present Application, e.g., beginning at page 8, line 18 and Figure 6.

<sup>6</sup> Present Application, e.g., beginning at page 9, line 5 and Figure 6.

<sup>7</sup> See note 1.

<sup>8</sup> See note 2.

<sup>9</sup> See note 3.

<sup>10</sup> See note 4.

<sup>11</sup> Present Application, e.g., page 8, beginning at line 6 and Figure 4.

<sup>12</sup> See note 11.

<sup>13</sup> See note 11.

<sup>14</sup> Present Application, e.g., beginning at page 9, line 5 and Figure 6.

<sup>15</sup> Present Application, e.g., beginning at page 9, line 17 and Figure 6b.

<sup>16</sup> See note 1.

parts,<sup>17</sup> and a filtering material 34.<sup>18</sup> The top panel and each of the vent parts define a multiplicity of discrete air passages 46.<sup>19</sup> At least one of the vent parts contacts an interior surface 52<sup>20</sup> of the top panel and has at least one layer of a three-ply material 38.<sup>21</sup> The three-ply material may comprise an intermediate ply 44<sup>22</sup> disposed between a pair of outer plies 40, 42.<sup>23</sup> Each of the vent part air passages is exposed at one of the interior and exterior edges of a vent part.<sup>24</sup>

D. Claim 15.

Independent claim 15 is to a method of venting a structure, which comprises allowing air exchange between the structure interior and the environment via a filter material 34,<sup>25</sup> top panel 30<sup>26</sup> and vent panel air passages 46<sup>27</sup> of the vent of this invention.

E. Claim 16.

Independent claim 16 is drawn to a method of constructing a vent and includes contacting a vent part<sup>28</sup> to a top panel 30<sup>29</sup> and securing an air permeable filter material 34<sup>30</sup> to an interior

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<sup>17</sup> See note 2.

<sup>18</sup> See note 3.

<sup>19</sup> See note 4.

<sup>20</sup> See note 14.

<sup>21</sup> See note 11.

<sup>22</sup> See note 11.

<sup>23</sup> See note 11.

<sup>24</sup> Present Application, e.g., beginning at page 9, line 3 and Figure 1.

<sup>25</sup> See note 3.

<sup>26</sup> See note 1.

<sup>27</sup> See note 4.

<sup>28</sup> See note 2.

<sup>29</sup> See note 1.

<sup>30</sup> See note 3.

surface 52,<sup>31</sup> 68<sup>32</sup> of the top panel and to the vent part<sup>33</sup>. Each top panel and vent part comprises a weatherproof material<sup>34</sup> defining a multiplicity of discrete air passages 46.<sup>35</sup>

F. Claim 26.

Independent claim 26 recites a method of installing the instant vent and comprises disposing the vent over an opening in a roof of a structure,<sup>36</sup> the vent comprising a top panel 30,<sup>37</sup> vent part,<sup>38</sup> and a filter material 34,<sup>39</sup> the top panel having an interior surface and a multiplicity of discrete top panel air passages 46<sup>40</sup> providing for fluid communication between the structure interior and the environment, the vent with a bottom surface and in a contacting relation with the interior surface of the top panel,<sup>41</sup> the vent part comprising a material defining a multiplicity of discrete vent part air passages 46<sup>42</sup> providing fluid communication between the structure interior and the environment, the filter material secured to the bottom surface of the vent part and top panel.<sup>43</sup>

VI. GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Whether claims 1-37 are obvious under 35 U.S.C. § 103(a) over WO 99/354456 in view of

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<sup>31</sup> See note 14.

<sup>32</sup> See note 6.

<sup>33</sup> Figure 6.

<sup>34</sup> Present Application, e.g., beginning at page 5, line 3.

<sup>35</sup> See note 4.

<sup>36</sup> Present Application, e.g., beginning at page 10, line 9 and Figure 1.

<sup>37</sup> See note 1.

<sup>38</sup> See note 2.

<sup>39</sup> See note 3.

<sup>40</sup> See note 4.

<sup>41</sup> Present Application, e.g., beginning at page 8, line 18 and Figure 6.

<sup>42</sup> See note 4.

<sup>43</sup> Present Application, e.g. beginning at page 9, line 5 and Figure 6.

U.S. 6,298,613.

## VII. ARGUMENT

A prima facie case of obviousness was not established against the rejected claims because all claim limitations are not disclosed by the references and because the required motivation to modify the disclosures of the cited documents was not shown.

### A. Legal Background

#### 1. The Examiner Bears The Burden of Demonstrating Obviousness

The Examiner has the burden of persuasion in showing that Appellants are not entitled to a patent.<sup>44</sup> The Patent Office has the ultimate burden of persuasion in establishing that an applicant is not entitled to a patent.<sup>45</sup> "The only determinative issue is whether the record as a whole supports the legal conclusion that the invention would have been obvious."<sup>46</sup> If the Examiner fails to establish a prima facie case of obviousness, the obviousness rejection must be withdrawn as a matter of law.<sup>47</sup>

#### 2. The Prima Facie Case of Obviousness Must Encompass All Claim Limitations

A proper prima facie case of obviousness must, inter alia, cite references disclosing all claim limitations.<sup>48</sup>

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<sup>44</sup> In re Oetiker, 24 USPQ2d 1443, 1447 (Fed. Cir. 1992) ("It is the commissioner's duty (acting through the examining officials) to determine that all requirements of the Patent Act are met. The burden is on the Commissioner to establish that the applicant is not entitled under the law to a patent.").

<sup>45</sup> In re Oetiker, 24 USPQ2d 1443, 1447 (Fed. Cir. 1992) ("Specifically, when obviousness is at issue, the examiner has the burden of persuasion and therefore the initial burden of production.... The examiner ... [retains] the ultimate burden of persuasion on the issue. If, as a matter of law, the issue is in equipoise, the applicant is entitled to the patent.").

<sup>46</sup> In re Oetiker, 24 USPQ2d 1443, 1447 (Fed. Cir. 1992).

<sup>47</sup> In re Ochiai, 37 USPQ2d 1127, 1131 (Fed. Cir. 1995).

<sup>48</sup> M.P.E.P. 2143 ("To establish a prima facie case of obviousness, the prior art reference (or references when combined) must teach or suggest all the claim limitations.").

3. The Prima Facie Case of Obviousness Must Show a Motivation Present in the Prior Art

In order to establish a prima facie case of obviousness, a rejection must, inter alia, establish a proper motivation for modifying the documents cited against the claims.<sup>49</sup> The motivation to modify the documents cited against the claims must be present in the documents themselves or otherwise in the prior art, not in the instant application<sup>50</sup> and must be "clear and particular."<sup>51</sup> Additionally, that all the pending claim limitations are known does not make the claim obvious in the absence of the requisite motivation.<sup>52</sup> Moreover, neither conclusory statements within the rejection nor subjective opinion stated in the rejection are sufficient to establish the required motivation to modify the documents cited against the claims.<sup>53</sup> Indeed, if

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<sup>49</sup> M.P.E.P. § 2142 ("To establish a prima facie case of obviousness, ... there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings.") (citations omitted).

<sup>50</sup> M.P.E.P. § 2142 ("The teaching or suggestion to make the claimed combination ... must both be found in the prior art, and not based on applicant's disclosure.").

<sup>51</sup> In re Dembiczak, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999) ("[The] district court's conclusion of obviousness was error when it 'did not elucidate any factual teachings, suggestions or incentives from this prior art that showed the propriety of combination.' ... The range of sources available, however, does not diminish the requirement for actual evidence. That is the showing must be clear and particular.") (emphasis added) (citations omitted).

<sup>52</sup> Abbott Laboratories v. Syntrol Bioresearch Inc., 67 USQP2d 1337, 1347 (Fed. Cir. 2003) ("Syntrol cites a statement by an expert for Abbott that the use of the fluid sample to drive the flow was known in the prior art. Knowledge in the prior art of every element of a patent claim, however, is not of itself sufficient to render the claim obvious. The issue is whether substantial evidence supports the judgment ... that a person having ordinary skill in the art would not have been motivated to replace the developing fluid/sample solution combination of Deutsch with flow provided solely by sample fluid.") (citations omitted).

<sup>53</sup> In re Lee, 61 U.S.P.Q.2d 1430, 1434 (Fed Cir. 2002) ("The examiner's conclusory statements that the demonstration mode is just a programmable feature which can be used in many different device[s] for providing automatic introduction by adding the proper programming software and that another motivation would be that the automatic demonstration mode is user friendly and it functions as a tutorial do not adequately address the issue of motivation to combine. This factual question of motivation is material to patentability, and could not be resolved on subjective belief and unknown authority. It is improper, in determining whether a person of ordinary skill would have been led to this combination of references, simply to [use] that which the inventor taught

the rejection asserts that the motivation was generally present in the art at the time of the invention without citing supporting portions of prior art documents, the Examiner may be required to execute an affidavit or declaration to that effect so that the Applicant may have the opportunity to explain or dispute the assertions therein.<sup>54</sup> Additionally, evidence of patentability is established if the disclosures of the cited documents actually teach away from the asserted modification.<sup>55</sup>

B. Analysis

1. The Rejection

The rejection rejected claims 1-37 under 35 U.S.C. § 103(a) as unpatentable over WO 99/35446, in view of U.S. 6,298,614, stating

The roof ridge vent of Morris [WO 99/35446] is identical to the present claims. Morris does not show a filter material secured to the bottom surface of the vent part. Patents to Coulton et al. [U.S. Patent 6,298,613] teach a roof ridge vent with filter (44 or 50, respectively) secured to the bottom surface of the vent part same as claimed. Therefore, it would have been obvious to one having ordinary skill in

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against its teacher. Thus the Board must not only assure that the requisite findings are made, based on evidence of record, but must also explain the reasoning by which the findings are deemed to support the agency's conclusion.") (internal quotation marks omitted) (emphasis added) (citations omitted).

<sup>54</sup> M.P.E.P. § 2144.03 ("As the court held in Zurko, an assessment of basic knowledge and common sense that is not based on any evidence in the record lacks substantial evidence support. If the examiner is relying on personal knowledge to support the finding of what is known in the art, the examiner must provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding.") (citations omitted); 37 CFR 1.104(d)(2) ("When a rejection in an application is based on facts within the personal knowledge of an employee of the Office, the data shall be as specific as possible, and the reference must be supported, when called for by the applicant, by the affidavit of such employee, and such affidavit shall be subject to contradiction or explanation by the affidavits of the applicant and other persons.") (emphasis added); In re Thrift, 63 USPQ2d 2002, 2006-2007 (Fed. Cir. 2002) ("Recently in In re Lee, we held that the Board's reliance on 'common knowledge and common sense' did not fulfill the agency's obligation to cite references to support its conclusions. Instead, the Board must document its reasoning on the record to allow accountability.") (citations omitted).

<sup>55</sup> MPEP § 2155.05 III ("A prima facie case of obviousness may also be rebutted by showing that the art, in any material respect, teaches away from the claimed invention. In re Geisler, 116 F.3d 1465, 1471, 43 USPQ2d 1362, 1366 (Fed. Cir. 1997)").



the art at the time the invention was made to provide Morris (Fig. 15) with the filter of Coulton in order to improve the ventilation efficiency.<sup>56</sup>

2. All Claim Limitations Are Not Disclosed or Suggested by WO 99/35446 ("Morris") and U.S. 6,298,614 ("Coulton et al.").

As shown above all claim limitations must be disclosed or suggested in the cited references if a prima facie case of obviousness is to be established.<sup>57</sup> Applicants first respectfully submit that not all of the claim limitations are disclosed or suggested by the cited references. Assuming arguendo that, with the exception of the filter material, Morris discloses identical limitations to those recited by the rejected claims with respect to the vent and further assuming arguendo that Coulton et al. shows a roof ridge vent with a filter secured to the bottom surface, none of these documents disclose or suggest securing the claimed filter material "to the bottom surface of the at least one vent part and to the top panel," as recited in claim 1; for attaching the claimed air permeable filter "to the bottom surface of the top panel and positioned to filter air being conveyed through the top panel air passages or the vent air part air passages," as recited in claim 13; extending the claimed filtering material "between the top panel and the bottom surface of one of the vent parts," as recited in claim 14; "allowing air exchange between the structure interior and the environment via the top panel air passages, the vent part air passages, and the filter material," as recited in claim 15; "securing an air permeable filter material to an interior surface of the top panel and to the vent part," as recited in claim 16; and "the filter material secured to the bottom surface of the vent part and to the top panel," as recited in claim 26. Because the foregoing claim elements are neither disclosed nor suggested by Morris and Coulton et al., a prima facie case of obviousness has not been established.

3. The Rejection Does Not Have the Required Motivation to Modify WO 99/35446 ("Morris") with U.S. 6,298,614 ("Coulton et al.").

As discussed in detail below, the required "clear and particular" motivation to modify the disclosure of Morris with the disclosure of Coulton et al. has not been established.

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<sup>56</sup> 25 July 2005 Office Action, paragraph 2.

<sup>57</sup> Note 48.

a. The Rejection Does Not Cite Supporting Portions of the Prior Art When Asserting the Required Motivation.

Because objective and unsupported opinion are insufficient as the required motivation, the motivation for the modification proposed in the rejection must come from the prior art, not from the disclosure in the application, and the portions of the prior art supporting motivation for the proposed modification must be cited in the rejection.<sup>58</sup> However in contradiction to the foregoing requirement, the rejection fails to cite portions of Morris, Coulton et al., or any other prior art document as supporting motivation for the proposed modification therein.

If the rejection does not cite supporting documents from the prior art and if the Examiner is requested by Applicant to do so, the Examiner must execute a declaration or affidavit stating specific facts supporting the assertion that the asserted motivation was generally present in the art at the time of the invention.<sup>59</sup> The Examiner has been asked twice during prosecution to provide a declaration or affidavit stating with particularity facts establishing the motivation as present in the prior art at the time of the invention.<sup>60,61</sup> However, the Examiner has failed to do so.

Because neither supporting documentation nor a declaration or affidavit has been made of record to support the requisite motivation for the proposed modification, a prima facie case of obviousness has not been shown with respect to the rejected claims.

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<sup>58</sup> Notes 50-53.

<sup>59</sup> Note 54.

<sup>60</sup> 3 May 2005 Amendment, paragraph bridging pages 13-14 ("If the Examiner maintains the rejection by failing to provide objective evidence within either Coulton et al. or Morris, the Examiner is respectfully requested to execute an affidavit or a declaration for the record asserting that the motivation was generally present in the art at the time of the invention. Applicants reserve the opportunity to explain or contradict any affidavit or declaration executed by the Examiner in subsequent proceedings.").

<sup>61</sup> 3 January 2005 Amendment, ("If this rejection is maintained, the Examiner is respectfully requested to either 1) cite portions of ... Coulton 613 [and] Morris 817 ... wherein the required motivation is present or 2) execute an affidavit or declaration for the record asserting that the required motivation was generally present in the art at the time of the invention and which Applicants may subsequently contradict or explain.") (Morris 817 (U.S. 5,947,817) issued from U.S. Patent Application 09/002,538, which is the priority application for WO 99/35446 ("Morris")).

b. A Person of Ordinary Skill in the Art Would Not Be Motivated to Make the Proposed Modification To Improve Ventilation Efficiency.

To have a prima facie case of obviousness, a person of ordinary skill in the art must have been motivated to make the proposed modification at the time of the invention.<sup>62</sup> Apparently to this end, the rejection asserts that "it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide Morris (Fig. 15) with the filter of Coulton, in order to improve the ventilation efficiency."<sup>63</sup> Improving ventilation efficiency would conceivably involve improving airflow through the vent. However, Coulton et al. states that the fabric backing does not restrict airflow. To this end, Coulton et al. refers to U.S. 5,960,595 as disclosing an openwork mat used for the filter as being made from randomly convoluted polymeric filaments.<sup>64</sup> U.S. Patent 5,960,595, in turn, states that "the fabric backing is supported on the exterior of the 'cusps,' it does not intrude into the inner structure of the present laminate so as to restrict the desired airflow through the laminate construction."<sup>65</sup> Applicants respectfully submit that not restricting desired airflow is not improving ventilation efficiency over vents without fabric backing. Therefore, the disclosure of Coulton et al. makes no claim to improving ventilation efficiency. None of Coulton et al., Morris, or any other known prior art document were cited as the basis for the subjective and unsupported assertion of the requisite motivation of improving ventilation efficiency. Because the prior art fails to support the unsupported opinion stated in the rejection, the requisite motivation has not been shown and a prima facie case of obvious has not been established.

Another portion of the 25 July 2005 Office Action seems to assert as the requisite motivation that ventilation efficiency is improved because cleaner air results from the proposed

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<sup>62</sup> Note 49.

<sup>63</sup> 25 July 2005 Office Action, page 2, paragraph 2.

<sup>64</sup> Coulton et al., column 3, beginning at line 3 ("According to the preferred embodiment of the present invention, the mat is an openwork mat made from randomly convoluted polymeric filaments as disclosed in U.S. Pat. No. 5,960,595.").

<sup>65</sup> U.S. 5,960,595, column 3, beginning at line 22.

combination.<sup>66</sup> Cleaner air as a rationale for the required motivation is not present in Coulton et al. and is not documented by any other citation from the prior art. Moreover, cleaner air within the ventilated building cannot result from using the fabric backing of Coulton et al. because air is egressed from the building, through the vent of this invention or that disclosed in Coulton et al., to the exterior environment.<sup>67</sup> Since air is egressed from the building, the building cannot have cleaner air resulting from using the modification proposed in the rejection. Because neither Coulton et al. nor any other citation from the prior art support the motivation asserted in the Office Action and because the stated benefit in the Office Action is impossible, a prima facie case of obviousness has again not been established.

c. The Present Application Teaches Away From the Proposed Modification.

As shown above, an otherwise prima facie case of obviousness is rebutted if the Present Application teaches away from the proposed modification.<sup>68</sup> The proposed motivation for the modification in the rejection, that of improving ventilation efficiency, is contradictory to the teaching of the Present Application. Indeed, the Present Application actually states that the presence of the filtering fabric will restrict, not improve, airflow.<sup>69,70</sup> Restricting airflow is not improving ventilation. Therefore, the Present Application materially teaches away from the proposed motivation. Because the Present Application teaches away from the motivation proposed in the rejection, a prima facie case of obviousness has not been established.

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<sup>66</sup> 25 July 2005 Office Action, paragraph 4 ("Therefore, ... it would have been obvious for one skilled in the art to provide Morris (Fig. 15) with the filter of Coulton ... in order to improve the ventilation efficiency with cleaner air.").

<sup>67</sup> See, e.g., Arrows depicting airflow, e.g., in Figure 7.

<sup>68</sup> See note 55.

<sup>69</sup> Present Application, page 9, beginning at line 11 ("Preferably, filtering fabric 34 allows passage of about 75 percent of the air that would flow were it not present.").

<sup>70</sup> Present Application, page 10, beginning at line 11 ("The cutout 24 may be larger than a cutout that would be used with a non-filtering ridge vent in order to compensate for the restriction of airflow caused by the filtering fabric 34.").

c. The Rejection Improperly Asserts That Presence of a Claim  
Limitation in the Art Per Se Is Itself the Required Motivation.

The Office Action asserts that the mere presence of a limitation in the prior art is, itself, motivation for the proposed modification.<sup>71</sup> As shown above, this is not the case.<sup>72</sup> If all claim limitations are arguendo present in the cited prior art documents, their mere presence is not the requisite motivation and the required motivation must nonetheless be present in the prior art and documented in the rejection. Because the Office Action improperly asserts that the mere presence of all claim limitations is the requisite motivation, the required motivation has not been shown and a prima facie case of obviousness has not been established.

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<sup>71</sup> 25 July 2005 Office Action, paragraph 4 ("Each and every claimed element is clearly shown or taught by the references. Please point out from the claims exactly which element that the references do not teach or [show].... [The] Morris patent clearly shows an identical roof ridge vent as broadly claimed. [The patent] to Coulton et al. teaches a roof ridge vent with [a] filter(44 or 50, respectively) secured to the bottom surface of the vent part same as claimed. Therefore, in view of the combined teachings of the references it would have been obvious for one skilled in the art to provide Morris (Fig. 15) with the filter of Coulton in view of the combined teachings in order to improve the ventilation efficiency with cleaner air.").

<sup>72</sup> Note 52.

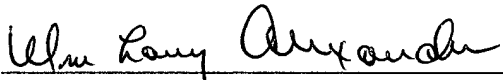
VII. CONCLUSIONS

As shown above, the rejection improperly rejects the pending independent claims because the cited references do not disclose or suggest all claim limitations and because the requisite motivation has not been established by the unsupported and subjective opinions stated therein.

The rejected dependent claims depend directly or indirectly from the improperly rejected independent claims. Hence, the dependent claims are allowable as well and reversal of the rejection is respectfully requested.

Respectfully submitted,

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Claims Appendix

1. (Original) A vent for conveying air between a structure interior and the environment, comprising:
  - a top panel having an interior surface and a multiplicity of discrete top panel air passages providing for fluid communication between the structure interior and the environment;
  - at least one vent part with a bottom surface and in a contacting relation with the interior surface of the top panel, the at least one vent part defining a plurality of discrete vent part air passages providing for fluid communication between the structure interior and the environment;
  - and
  - a filter material secured to the bottom surface of the at least one vent part and to the top panel.
2. (Original) The vent of claim 1, in which the top panel comprises a weatherproof three-ply material.
3. (Original) The vent of claim 2, in which the three-ply material comprises a pair of outer plies and a series of cross walls disposed between the outer plies.
4. (Previously Presented) The vent of claim 2, in which the three-ply material comprises a pair of outer plies and an intermediate ply disposed between the outer plies, the outer plies and the intermediate ply defining the multiplicity of top panel air passages.
5. (Original) The vent of claim 4, in which the intermediate ply is generally convoluted or fluted.
6. (Original) The vent of claim 2, in which the at least one vent part comprises at least one layer, the at least one layer comprising the three-ply material.

7. (Original) The vent of claim 6, in which the three-ply material comprises a pair of outer plies and an intermediate ply disposed between the outer plies, the outer plies and the intermediate ply defining the plurality of vent part air passages.
8. (Original) The vent of claim 6, in which the three-ply material comprises a pair of outer plies and a series of cross walls disposed between the outer plies.
9. (Original) The vent of claim 1, in which a plurality of spaced apart vent parts are present.
10. (Original) The vent of claim 9, in which at least one of the plurality of vent parts comprises a plurality of layers, each of the plurality of layers constructed from a weatherproof three-ply material.
11. (Previously Presented) The vent of claim 1, in which the top panel is characterized by a longitudinal axis and in which the multiplicity of top panel air passages and the plurality of vent part air passages extend generally transversely or generally perpendicularly to the top panel longitudinal axis.
12. (Original) The vent of claim 11, in which the top panel comprises a route defined therein, the route generally parallel to the longitudinal axis.
13. (Previously Presented) A vent, comprising:
  - a top panel having a bottom surface and a multiplicity of discrete top panel air passages;
  - a vent part contacting the top panel and having a bottom surface, an interior surface, and an exterior surface and formed from a three-ply material with a pair of outer plies and an intermediate ply disposed between the outer plies to define a multiplicity of discrete vent part air passages, each of the vent part air passages extending between the interior surface and the exterior surface; and
  - an air permeable filter attached to the bottom surface of the top panel and positioned to



filter air being conveyed through the top panel air passages or the vent air part air passages.

14. (Previously Presented) A device for venting a structure, comprising:

a top panel having an interior surface and comprising a multiplicity of discrete top panel air passages fluidly communicating an exterior of said device and an interior of said device;

a plurality of vent parts, at least one of the vent parts contacting the top panel interior surface, each of the plurality of vent parts having a bottom surface, an interior edge and an exterior edge and comprising at least one layer of a three-ply material, the three-ply material having a pair of outer plies and an intermediate ply disposed between the outer plies so as to define a multiplicity of discrete vent part air passages, each of the multiplicity of vent part air passages exposed at one of the interior edges and one of the exterior edges; and

a filtering material extending between the top panel and the bottom surface of one of the vent parts.

15. (Previously Presented) A method of venting a structure with an interior with a vent placed over an opening in the structure, the vent comprising a top panel, at least one vent part, and an air permeable filter material, the top panel having an interior surface and a multiplicity of discrete top panel air passages, the at least one vent part having a bottom surface and contacting the top panel interior surface, the at least one vent part comprising a weatherproof material defining a multiplicity of discrete vent part air passages, the filter material secured to the at least one vent part and to the interior surface of the top panel; the method comprising allowing air exchange between the structure interior and the environment via the top panel air passages, the vent part air passages, and the filter material.

16. (Previously Presented) A method of constructing a vent, comprising:

contacting a vent part to a top panel, each of the top panel and the vent part comprising a weatherproof material defining a multiplicity of discrete air passages; and

securing an air permeable filter material to an interior surface of the top panel and to the vent part.

17. (Original) The method of claim 16, in which the filter material is secured to a bottom surface of the vent part.
18. (Original) The method of claim 16, in which the contacted top panel and the contacted vent part comprises a weatherproof three ply-material defining the multiplicity of air passages.
19. (Previously Presented) The method of claim 18, in which the three-ply material comprises a pair of outer plies and an intermediate ply disposed between the outer plies so as to define the multiplicity of air passages.
20. (Original) The method of claim 19, in which the intermediate ply is generally convoluted or generally fluted.
21. (Previously Presented) The method of claim 18, in which the weatherproof material comprises a pair of outer plies and a series of cross walls disposed between the outer plies to define the multiplicity of air passages.
22. (Original) The method of claim 16, in which the vent part comprises a plurality of layers made from the weatherproof material.
23. (Original) The method of claim 16, in which a route is defined in the top panel so as expose the air passages defined in the top panel.
24. (Original) The method of claim 16, in which a plurality of vent parts are contacted to the top panel.
25. (Original) The method of claim 16, further comprising securing the vent part to the top panel.

26. (Previously Presented) A method of installing a vent, comprising disposing the vent over an opening in a roof of a structure, the vent comprising a top panel, a vent part, and a filter material, the top panel having an interior surface and a multiplicity of discrete top panel air passages providing for fluid communication between the structure interior and the environment, the vent part with a bottom surface and in a contacting relation with the interior surface of the top panel, the vent part comprising a material defining a multiplicity of discrete vent part air passages providing for fluid communication between the structure interior and the environment, the filter material secured to the bottom surface of the vent part and to the top panel.
27. (Original) The method of claim 26, in which the top panel comprises a three-ply material.
28. (Previously Presented) The method of claim 27, in which the three-ply material comprises a pair of outer plies and an intermediate ply disposed between the outer plies, the outer plies and the intermediate ply defining the multiplicity of top panel air passages.
29. (Original) The method of claim 26, in which the top panel comprises a pair of outer plies and a series of cross walls disposed between the outer plies.
30. (Previously Presented) The method of claim [[27]] 28, in which the intermediate ply is generally convoluted or fluted.
31. (Original) The method of claim 27, in which the vent part comprises a plurality of layers, each of the plurality of layers comprising the three-ply material.
32. (Original) The method of claim 31, in which the three-ply material comprises a pair of outer plies and an intermediate ply disposed between the outer plies to define the multiplicity of vent part air passages.

33. (Original) The method of claim 26, in which a plurality of opposed spaced apart vent parts are present.
34. (Original) The method of claim 33, in which one of the plurality of vent parts comprises a plurality of layers.
35. (Original) The method of claim 26, in which the top panel is characterized by a longitudinal axis and in which the multiplicity of top panel air passages and the multiplicity of vent part air passages extend generally transversely or generally perpendicularly to the top panel longitudinal axis.
36. (Original) The method of claim 35, in which the top panel comprises a route, the route generally parallel to the longitudinal axis.
37. (Original) The method of claim 26, further comprising securing the vent to the roof.

Evidence Appendix

None

Related Proceedings Appendix

None